

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Defendant.

SENTENCING MEMORANDUM

**2nd Street
LAW**
PLLC

- 1 -

1 addendum. The restitution is stipulated to be \$302,145.40. Ms. Padilla-Reyna has
2 been able to deposit in trust with counsel the amount of \$300,000¹. Additionally, the
3 government has provided notice of and negotiated a civil forfeiture of real estate tied
4 to PPP loan funds. The parties intend to submit an addendum to the plea agreement
5 which will set out a plan for liquidating that real estate and forfeiting the proceeds,
6 which will lead to a request by both parties that the civil forfeiture amount be credited
7 toward restitution in the criminal case.
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10 The defense requests a sentence of probation for 36 months with full restitution
11 to be paid in light of Ms. Padilla-Reyna's unique history and characteristics, the
12 nature of the crime, and the unusual circumstances under which this fraud was
13 perpetrated. Incarceration is unnecessary as a deterrent to her or to others as this
14 unique Covid situation has essentially passed and hopefully will never recur.
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16 Publicity of this prosecution and others like it, in which-business owners fraudulently
17 overreached, has already efficiently sent the necessary messages. Regular news
18 releases from the US Attorney's office have sufficiently broadcast the consequences
19 of taking more than was justified from the suddenly spewing federal tap. This
20 includes releases related to Ms. Padilla-Reyna. Because these were business owners,
21 the publication of the indictment, plea and eventual sentencing have been the
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26 ¹ The funds in trust are held by counsel solely for reimbursement to the government
27 for losses incurred through the defendant's fraudulent practices in falsely acquiring
28 pandemic loans.

1 fundamental deterrent. Ms. Padilla-Reyna fully expects that she will struggle with
2 employment as a result of her decisions. Not only will she likely lose her job, but she
3 will lose any ability to work in the field to which she devoted her adult life. To better
4 her chances she is currently in a Ph.D. program. Yet, the degree will not be
5 especially valuable, nor will her prior master's degree. Even her extensive job
6 experience is no guarantee of landing on her feet. In middle age, she will be hoping
7 for some new career that, as yet, she cannot imagine. Her expected income earning
8 capacity will probably be more than halved because Karla's self-control abandoned
9 her when spigots of federal dollars were suddenly gushing free cash. In a time of
10 need she was weak. The consequences will be ongoing.

14 Considering the serious consequences this court routinely deals with on a daily
15 basis, these career consequences for Karla may seem trivial. It is anything but trivial
16 to Ms. Padilla-Reyna. This is not because she is self-centered or that she lacks
17 perspective, but because of where she came from and how hard she fought to get
18 here. As the PSIR indicates, she was subjected to severe, horrifying trauma as a
19 young child, which occurred in the context of a separation from both of her parents
20 due to the family's split citizenship. In grade school, she was able to rejoin her family
21 and has become a naturalized citizen. That achievement and her many career
22 successes are what has driven her as she has struggled to deal with what happened to
23 her as a child.

1 Karla has held herself to an extremely high standard of achievement and she
2 very much wants others to recognize her success. This has been the motivation
3 behind her many career achievements. It has also been the trigger for her criminal
4 behavior here as well. In the midst of the COVID pandemic crisis, she found herself
5 losing her grip on everything she had achieved. She was laid off (though she found
6 other work), and she was deeply in debt due to a fundamental and embarrassing
7 misunderstanding of tax law. Her perception of herself and her worth were crashing
8 as a result. She feared that her family would no longer respect her, and that she would
9 no longer be able to support them in the way she felt that she needed to. This intense
10 personal strain was magnified by her mental health concerns. Karla has been
11 consistent about, and aware of, her need for medication and a need for ongoing
12 attention to her own mental health. Unfortunately, she can't just simply make it all
13 okay. Times of strain exacerbate the paralyzing effect of her illness. It was in this
14 context that the PPP program came along and she made a series of seriously flawed
15 decisions while embroiled in negative thinking and a sense of helplessness.
16 Thankfully, she has worked her way out of that mindset and had moved on to a better
17 work environment since this Indictment came along. She was cooperative with law
18 enforcement and has taken responsibility for her malignant choices during that dark
19 period of temptation. She is able to pay back the restitution immediately. The parties
20 are in agreement that the best approach to restitution is to pay a large amount
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1 immediately and defense counsel will hold the remainder while the civil forfeiture
 2 proceeding is completed, to ensure that full restitution is paid. This plan will be
 3 outlined further in the addendum to the plea agreement to be filed shortly.
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5 The guideline range for this offense is 21-27 months in prison to be followed
 6 by a term of up to 3 years of community custody.
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8 Statutorily the defendant is eligible for not less than 1 or more than 5 years
 9 probation because the offense is a Class C Felony. 18 U.S.C. § 3561(c)(1). One of the
 10 following must be imposed as a condition of probation unless extraordinary
 11 circumstances exist: a fine, restitution, or community service². In this case the
 12 repayment of restitution is largely resolved, but will need further monitoring.
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14 The fine range for this offense is \$10,000 to \$95,000. USSG §5E1.2(c)(3). If
 15 any fine is imposed the defendant would hope the court recognizes the financial
 16 distress she is currently under.
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18 A sentence of 36 months of probation would also be proportionate to other
 19 fraud cases. A review of the US Attorney's office press releases reveals that, in the
 20 one PPP loan case already sentenced, the owners of a company owing over \$2 million
 21 were able to enter a deferred prosecution. Several other defendants within the Eastern
 22 District of Washington have received sentences of probation.
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 26 ² Since the applicable **guideline range** is in Zone D of the Sentencing Table, the
 27 defendant is ineligible for probation. USSG §5B1.1, comment. (n.2). **(Bold added).**
 28 **The defendant is not seeking a guideline sentence.**

CONCLUSION

For the foregoing reasons, the defense urges that a sentence of probation is appropriate under 18 USC 3553. It is proportionate, deterrence in these cases already has powerful momentum built through publicity, and it is suited to the unique history and characteristics of Ms. Padilla. Restitution is agreed, and Ms. Padilla has participated in forfeiture negotiations to obviate the need for separate civil litigation. She has taken full responsibility for her actions and pooled all of her financial resources including her retirement savings to make up front restitution possible.

DATED: May 8, 2023

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CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: SAUSA Frieda K. Zimmerman, AUSA Tyler Tornabene, and AUSA Dan Fruchter.

s/ Robin Emmans

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